

50
United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Suzanne B. Conlon	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 4457	DATE	11/12/2004
CASE TITLE	HIGHTOWER vs. ALL AROUND AMUSEMENT, INC.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

--

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] The court has reviewed the record and pleadings. The complaint does not invoke federal jurisdiction, but rather the complaint asserts a claim against plaintiff's former employer and its president under the Illinois Minimum Wage Act. Plaintiff's affidavit supporting his default judgment prove-up attests his employer operated in interstate commerce during his employment; he seeks back pay and attorney's fees under the Fair Labor Standards Act, 28 U.S.C. § 201 *et seq.* Defendant Robert Salerno contests the purported jurisdictional facts in plaintiff's affidavit. The complaint may not be amended by a prove-up affidavit. Accordingly, this case is dismissed without prejudice for lack of federal jurisdiction. The technical default entered on September 9, 2004 is vacated. An amended complaint may be filed by November 23, 2004.
- (11) ☐ [For further detail see order (on reverse side of/attached to) the original minute order.] *Suzanne B. Conlon*

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	CB courtroom deputy's initials	NOV 15 2004 date docketed <i>[Signature]</i> docketing deputy initials 11/12/04 date mailed notice PW mailing deputy initials	Document Number 21